

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 29, 2003

Regulation Package #0302-08b

CDSS MANUAL LETTER NO. CCL-03-03

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,  
CHAPTER 9.5, FOSTER FAMILY HOMES

**Regulation Package #0302-08b****Effective 7/1/03****Sections 89372, 89387, and 89572.2**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/FosterFami\\_629.htm](http://www.dss.cahwnet.gov/ord/FosterFami_629.htm).

The Certificate of Compliance for the Foster Family Homes Emergency regulations (ORD #0302-08) was approved by OAL on April 9, 2003. After the manual letter for this regulation package was prepared, it was discovered that a few nonsubstantive amendments that were originally proposed were inadvertently left out of the package that was submitted to OAL for review. This manual letter includes the aforementioned amendments that were approved by OAL effective July 1, 2003.

**FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-03-02. The latest prior manual letter containing Foster Family Homes regulation changes was Manual Letter No. CCL-03-01.

**Page(s)**

78 and 79  
86 and 87  
105 and 106

**Replace(s)**

Pages 78 and 79  
Pages 86 and 87  
Pages 105 and 106

Attachments

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**89372 PERSONAL RIGHTS****89372**

- (a) The caregiver shall ensure that each child is accorded the personal rights specified in this section.
- (b) Each child, and his/her authorized representative, shall be personally advised, and given at admission a copy, of the rights specified in (c) below.
- (c) Each child shall have personal rights which include but are not limited to the following:
  - (1) To be accorded safe, healthful and comfortable home accommodations, furnishings and equipment that are appropriate to his/her needs.
    - (A) To have storage space for his/her private use.
  - (2) To be treated with respect and to be free from physical, sexual, emotional or other abuse.
  - (3) To be treated with respect and to be free from discrimination, intimidation or harassment based on sex, race, color, religion, ancestry, national origin, disability, medical condition or sexual orientation or perception of having one or more of these characteristics.
  - (4) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature including but not limited to interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.
  - (5) To receive adequate and healthy food.
  - (6) To be provided adequate clothing and personal items.
    - (A) To wear his/her own clothes.
    - (B) To possess and use his/her own personal items including toiletries.
  - (7) To receive an allowance if living in a group home.
  - (8) To receive necessary medical, dental, vision, and mental health services.
  - (9) To be free of the administration of medication or chemical substances, unless authorized by a physician and, if required, by court order.
  - (10) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors and friends.
  - (11) To contact family members, unless prohibited by court order.

**89372 PERSONAL RIGHTS (Continued)****89372**

- (12) To visit and contact brothers and sisters, unless prohibited by court order.
- (13) To contact social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
- (14) To have visitors, provided the rights of others are not infringed upon.
  - (A) Relatives, during waking hours, unless prohibited by court order, or by the child's authorized representative.
  - (B) Authorized representative.
  - (C) Other visitors, unless prohibited by court order or by the child's authorized representative.
- (15) To contact Community Care Licensing Division of the State Department of Social Services if residing in a licensed home, or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially and to be free from threats or punishments for making complaints.
  - (A) To be informed and to have his/her authorized representative informed, by the caregiver of the provisions of law regarding complaints, including but not limited to the address and telephone number of the complaint, receiving unit of the licensing agency and of information regarding the confidential registration of complaints.
- (16) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
  - (A) Reasonable restrictions may be imposed by the social worker/caregiver to calls and correspondence.
  - (B) No restrictions shall be applied to those listed in (c)(12) above.
  - (C) Other reasonable restrictions may be imposed. The caregiver may:
    - 1. Request long distance cost reimbursement, for calls made by the child, from the child or his/her authorized representative;
    - 2. Be permitted to deny the making of long distance calls by the child upon verification that previous long distance calls have not been paid.
    - 3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies;

**89387 BUILDINGS AND GROUNDS (Continued)****89387**

- (B) The pool shall be equipped with an approved safety pool cover as defined in Section 115921 of the Health and Safety Code.

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Section 115921(d) of the Health and Safety Code states in pertinent part:

(d) "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

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- (C) When the Department determines that it is not feasible for the caregiver to comply with (A) or (B) above, the residence shall be equipped with exit alarms, as defined in Section 115921 of the Health and Safety Code, on those doors or windows providing direct access to the pool.

1. Where it is feasible to comply in part with (A), the Department may authorize use of a combination of (A) and (C).

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Section 115921 of the Health and Safety Code states in pertinent part:

"Exit alarms" means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

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2. All windows providing direct access from the home to the swimming pool shall be secured so that they cannot open more than 4 inches, however, if they are sleeping rooms, they must use an exit alarm.
- (D) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the devices set forth in subdivisions (A) to (C), inclusive, as determined by the building official of the jurisdiction issuing the applicable building permit, or other official documentation. Any ordinance governing child access to pools adopted by a political subdivision on or before January 1, 1997, is presumed to afford protection that is equal to or greater than that afforded by any of the devices set forth in subdivisions (A) to (C), inclusive.

**89387 BUILDINGS AND GROUNDS (Continued)****89387**

1. The caregiver must submit to the department documentation of approval by the building official of his/her jurisdiction before accepting children described in subsection (D) above.
  2. If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 89387(d)(1)(A) until such fence is replaced or structurally altered. When the caregiver replaces or alters the fence, it shall be required to meet the fence requirements specified in Section 89387(d)(1)(A).
- (e) If the home has an above-ground pool, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible and if the pool is less than 60 inches in height, by the use of a barricade. Any barricade, whether or not it includes the above-ground pool structure itself, shall meet the requirements of Section 89387(d)(1)(A).
- (f) All in-ground pools, and above-ground pools which cannot be emptied after each use, shall have an operative pump and filtering system.
- (g) An adult who has the ability to swim shall provide supervision at all times when children are using a pool or a body of water from which rescue requires the rescuer's ability to swim.
- (h) The caregiver who accepts a child with a disability shall make necessary specific provisions including but not limited to changes to the buildings and grounds as required to protect and assist the child and maximize the child's potential for self-help.
- (i) The caregiver shall maintain at least one toilet, sink, and tub or shower maintained in safe, clean operating conditions.
- (j) Bunk beds of more than two tiers shall not be used.
- (1) Bunk beds shall have railings on the upper tier to prevent falling.
  - (2) Children under five years of age or those who are unable to climb into or out of the upper tier unassisted shall not be permitted to use the upper tier.
- (k) The caregiver shall maintain a comfortable temperature for children at all times.
- (l) The caregiver shall ensure the safety of children in a home that has fireplaces, open-faced heaters, or woodstoves.
- (m) The caregiver shall provide lamps or light as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the home.
- (n) Faucets used by clients for personal care and grooming shall deliver hot water at a safe temperature.

**89570.1 ADDITIONAL CHILDREN'S RECORDS FOR SPECIALIZED  
FOSTER FAMILY HOMES (Continued)****89570.1**

- (3) The individualized health care plan for each child with special health care needs documents the determinations specified in Sections 89510.1(a)(1)(C) and (C)1.
- (A) Documentation may be provided in different ways, including, but not limited to, a written statement from a member designated by the team that the team has been notified and has determined that the two-child limit may be exceeded.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 17710, 17731, and 17732(a), Welfare and Institutions Code and Section 1531, Health and Safety Code.

**89572.2 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL  
HEALTH CARE NEEDS****89572.2**

- (a) Children with special health care needs are afforded all the personal rights specified in Section 89372, with the following modifications:
- (1) Section 89372(c)(8) shall not apply to children with special health care needs. Children with Special Health Care Needs have the right to be free of the administration of medication or chemical substances except as specifically provided in a child's individualized health care plan.
- (2) Section 89372(c)(19) shall not apply to children with special health care needs. A child with special health care needs has the right to be free from any restraining/postural support device except as required to treat the child's specific medical symptoms and addressed or outlined in the child's individualized health care plan.
- (A) Physical restraining devices may be used for the protection of a child with special health care needs during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. The restraining device, which shall not have a locking device, shall be applied for no longer than the time required to complete the treatment and shall be applied in conformance with the child's individualized health care plan. The child's individualized health care plan shall include all of the following:
1. The specific medical symptom(s) that require use of the restraining device.

**89572.2 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS (Continued)****89572.2**

2. An evaluation of less restrictive therapeutic interventions and the reason(s) for ruling out these other practices as ineffective.
3. A written order by the child's physician. The order must specify the duration and circumstances under which the restraining device is to be used.

(B) Postural supports as specified in Sections 89372(c)(19)(A), half-bedrails, and protective devices as specified in Section 89372(c)(19)(F), may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Section 1530, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 16001.9, 17730 and 17736, Welfare and Institutions Code.

**89587.1 ADDITIONAL BUILDINGS AND GROUNDS REQUIREMENTS FOR SPECIALIZED FOSTER FAMILY HOMES****89587.1**

- (a) Areas in the home, including bedrooms, bathrooms, toilets, dining areas, passageways and recreational spaces used by a child with special health care needs shall be large enough to accommodate any medical equipment needed by the child therein.
  - (1) Bedrooms occupied by children with special health care needs shall be large enough to allow the storage of each child's personal items and any required medical equipment or assistive devices, including wheelchairs, adjacent to the child's bed.
    - (A) The bedroom shall be large enough to permit unobstructed bedside ministrations of medical procedures and medications.
- (b) Notwithstanding Section 89387(a)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the home if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.
- (c) When required by the child's individualized health care plan, the caregiver(s) or other adult caring for the child shall sleep in a bedroom adjacent or in close proximity to the child's room.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Section 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 17732, Welfare and Institutions Code.